

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ANTONIO ANTWAIN ASH,

Plaintiff,

vs.

**ROBERT PATTON, Prison
Director; GREG WILLIAMS,
Associate Director of Prisons,**

Defendants.

Case No. CIV-14-1106-R

REPORT AND RECOMMENDATION

Plaintiff, a state prisoner appearing pro se, has filed this civil rights action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. The matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). By order dated November 19, 2014, Doc. 10, at 1, the undersigned noted that Plaintiff's filing was deficient and advised Plaintiff that in order for his action to proceed, he must cure the deficiencies by December 19, 2014. The undersigned also advised Plaintiff that failure to comply could result in the dismissal of his action. *Id.* at 2.

To date Plaintiff has not responded to this Court's order. He has neither cured the deficiencies, nor shown good cause for his failure to do so, nor requested an extension of time to comply with the order. The undersigned finds that Plaintiff's failure to comply with this Court's order, together with the

Court's right and responsibility to manage and control its case load, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1161 n.2, 1162 (10th Cir. 2007) (noting the Court applies Fed. R. Civ. P. 41(b) to allow sua sponte dismissal for "failure to . . . comply with the rules of civil procedures or court's orders") (citation omitted).

RECOMMENDATION

Therefore, the undersigned recommends that Plaintiff's action be dismissed without prejudice. Any objection to this Report and Recommendation must be filed with the Clerk of this Court on or before the 20th day of January, 2015, in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(2). Failure to make a timely objection to this Report and Recommendation waives the right to appellate review of both the factual findings and the legal issues decided herein. *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the Magistrate Judge in the captioned matter.

ENTERED this 31st day of December, 2014.



SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE